

PART 385—REHABILITATION TRAINING

Subpart A—General

Sec.

385.1 What is the Rehabilitation Training program?

385.2 Who is eligible for assistance under these programs?

385.3 What regulations apply to these programs?

385.4 What definitions apply to these programs?

Subpart B [Reserved]

Subpart C—How Does One Apply for a Grant?

385.20 What are the application procedures for these programs?

Subpart D—How Does the Secretary Make a Grant?

385.30 [Reserved]

385.31 How does the Secretary evaluate an application?

385.33 What other factors does the Secretary consider in reviewing an application?

Subpart E—What Conditions Must Be Met by a Grantee?

385.40 What are the requirements pertaining to the membership of a project advisory committee?

385.41 What are the requirements affecting the collection of data from designated State agencies?

385.42 What are the requirements affecting the dissemination of training materials?

385.43 What requirements apply to the training of rehabilitation counselors and other rehabilitation personnel?

385.44 What requirement applies to the training of individuals with disabilities?

385.45 What additional application requirements apply to the training of individuals for rehabilitation careers?

385.46 What limitations apply to the rate of pay for experts or consultants appointed or serving under contract under the Rehabilitation Training program?

AUTHORITY: Sections 12(c), 301, and 302 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), 771, and 772; Pub. L. 111–256, 124 Stat. 2643; unless otherwise noted.

SOURCE: 81 FR 55614, Aug. 19, 2016, unless otherwise noted.

Subpart A—General

§ 385.1 What is the Rehabilitation Training program?

(a) *Purpose.* The Rehabilitation Training program is designed to—

(1) Ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs (including supported employment programs), through economic and business development programs, through independent living services programs, and through client assistance programs;

(2) Maintain and upgrade basic skills and knowledge of personnel employed, including personnel specifically trained to deliver rehabilitation services, including supported employment services and customized employment services, to individuals with the most significant disabilities, and personnel specifically trained to deliver services to individuals with disabilities whose employment outcome is self-employment, business ownership, or telecommuting, to provide state-of-the-art service delivery and rehabilitation technology services; and

(3) Provide training and information to individuals with disabilities, the parents, families, guardians, advocates, and authorized representatives of the individuals, and other appropriate parties to develop the skills necessary for individuals with disabilities to access the rehabilitation system and to become active decision makers in the vocational rehabilitation process.

(b) The Secretary awards grants and contracts on a competitive basis to pay part of the costs of projects for training, traineeships or scholarships, and related activities, including the provision of technical assistance, to assist in increasing the numbers of qualified personnel trained in providing vocational rehabilitation services and other services provided under the Act, to individuals with disabilities. Financial assistance is provided through multiple training programs, including:

(1) Rehabilitation Long-Term Training (34 CFR part 386).

(2) Innovative Rehabilitation Training (34 CFR part 387).

(3) Rehabilitation Short-Term Training (34 CFR part 390).

(4) Training of Interpreters for Individuals Who Are Deaf and Hard of Hearing and Individuals Who Are Deaf-Blind (34 CFR part 396).

(Authority: Sections 12(c), 301 and 302 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), 771 and 772)

§ 385.2 Who is eligible for assistance under these programs?

States and public or private nonprofit agencies and organizations, including Indian tribes and institutions of higher education, are eligible for assistance under the Rehabilitation Training program.

(Authority: Sections 7(19), 301, and 302 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(19), 771 and 772)

§ 385.3 What regulations apply to these programs?

The following regulations apply to the Rehabilitation Training program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 75 (Direct Grant Programs).

(2) 34 CFR part 77 (Definitions That Apply to Department Regulations).

(3) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(4) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 84 (Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)).

(7) 34 CFR part 86 (Drug-Free Schools and Campuses).

(8) 34 CFR part 97 (Protection of Human Subjects).

(9) 34 CFR part 98 (Student Rights in Research, Experimental Programs, and Testing).

(10) 34 CFR part 99 (Family Educational Rights and Privacy).

(b) The regulations in this part 385.

(c) [Reserved]

(d)(1) 2 CFR part 180 (OMB Guidelines to Agencies on Debarment and Suspension (Nonprocurement)), as adopted at 2 CFR part 3485; and

(2) 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) as adopted at 2 CFR part 3474.

(Authority: Sections 12(c) and 302 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 711(c) and 772)

§ 385.4 What definitions apply to these programs?

(a) The following definitions in 34 CFR part 77 apply to the programs under the Rehabilitation Training Program—

Applicant
Application
Award
Budget Period
Department
EDGAR
Grantee
Nonprofit
Private
Project
Project Period
Public
Secretary

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c))

(b) The following definitions also apply to programs under the Rehabilitation Training program:

Act means the Rehabilitation Act of 1973, as amended (29 U.S.C. 701 *et seq.*).

Assistive technology means technology designed to be utilized in an assistive technology device or assistive technology service.

Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

Assistive technology service means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. The term includes—

(i) The evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

(ii) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(iii) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

(iv) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(v) Training or technical assistance for an individual with disabilities, or, if appropriate, the family of an individual with disabilities;

(vi) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities; and

(vii) A service consisting of expanding the availability of access to technology, including electronic and information technology, to individuals with disabilities.

Community rehabilitation program means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

(i) Medical, psychiatric, psychological, social, and vocational services that are provided under one management;

(ii) Testing, fitting, or training in the use of prosthetic and orthotic devices;

(iii) Recreational therapy;

(iv) Physical and occupational therapy;

(v) Speech, language, and hearing therapy;

(vi) Psychiatric, psychological, and social services, including positive behavior management;

(vii) Assessment for determining eligibility and vocational rehabilitation needs;

(viii) Rehabilitation technology;

(ix) Job development, placement, and retention services;

(x) Evaluation or control of specific disabilities;

(xi) Orientation and mobility services for individuals who are blind;

(xii) Extended employment;

(xiii) Psychosocial rehabilitation services;

(xiv) Supported employment services and extended services;

(xv) Services to family members when necessary to the vocational rehabilitation of the individual;

(xvi) Personal assistance services; or

(xvii) Services similar to the services described in paragraphs (i) through (xvi) of this definition.

Designated State agency means an agency designated under section 7(8) and 101(a)(2)(A) of the Act.

Designated State unit means

(i) Any State agency unit required under section 7(8) and 101(a)(2)(B) of the Act, or

(ii) In cases in which no State agency unit is required, the State agency described in section 101(a)(2)(B)(ii) of the Act.

Independent living core services means—

(i) Information and referral services;

(ii) Independent living skills training;

(iii) Peer counseling, including cross-disability peer counseling; and

(iv) Individual and systems advocacy.

Independent living services includes—

(i) Independent living core services; and

(ii)(A) Counseling services, including psychological, psychotherapeutic, and related services;

(B) Services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

(C) Rehabilitation technology;

(D) Mobility training;

(E) Services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

(F) Personal assistance services, including attendant care and the training of personnel providing these services;

(G) Surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

(H) Consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

(I) Education and training necessary for living in the community and participating in community activities;

(J) Supported living;

(K) Transportation, including referral and assistance for transportation;

(L) Physical rehabilitation;

(M) Therapeutic treatment;

(N) Provision of needed prostheses and other appliances and devices;

(O) Individual and group social and recreational services;

(P) Training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

(Q) Services for children;

(R) Services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

(S) Appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

(T) Community awareness programs to enhance the understanding and integration of individuals with disabilities; and

(U) Such other services as may be necessary and not inconsistent with the provisions of this Act.

Individual with a disability means any individual who—

(i) Has a physical or mental impairment, which for that individual constitutes or results in a substantial impediment to employment;

(ii) Can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant

to title I, III, or VI of the Rehabilitation Act of 1973, as amended; and

(iii) Has a disability as defined in section 7(20)(B) of the Act.

Individual with a significant disability means an individual with a disability—

(i) Who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(ii) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(iii) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, intellectual disability, respiratory or pulmonary dysfunction, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle-cell anemia, specific learning disabilities, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs.

Institution of higher education has the meaning given the term in section 101(a) of the Higher Education Act (20 U.S.C. 1001(a)).

Personal assistance services means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. The services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

Qualified personnel. (i) For designated State agencies or designated State units, means personnel who have met standards that are consistent with existing national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which

such personnel are providing vocational rehabilitation services.

(ii) For other than designated State agencies or designated State units, means personnel who have met existing State certification or licensure requirements, or, in the absence of State requirements, have met professionally accepted requirements established by national certification boards.

Rehabilitation services means services, including vocational, medical, social, and psychological rehabilitation services and other services under the Rehabilitation Act, provided to individuals with disabilities in performing functions necessary in preparing for, securing, retaining, or regaining an employment or independent living outcome.

Rehabilitation technology means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

State includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Stipend means financial assistance on behalf of individuals in support of their training, as opposed to salary payment for services provided within the project.

Supported employment means competitive integrated employment, including customized employment, or employment in an integrated work setting in which individuals are working on a short-term basis toward competitive integrated employment, that is individualized and customized consistent with the strengths, abilities, interests, and informed choice of the individuals involved, for individuals with the most severe disabilities—

(i)(A) For whom competitive integrated employment has not traditionally occurred; or

(B) For whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

(ii) Who, because of the nature and severity of their disability, need intensive supported employment services from the designated State unit and extended services after transition in order to perform the work involved.

Supported employment services means ongoing support services, including customized employment, and other appropriate services needed to support and maintain an individual with most severe disability in supported employment, that are—

(i) Provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in entering or maintaining integrated, competitive employment;

(ii) Based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

(iii) Provided by the designated State unit for a period of time not more than 24 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized plan for employment.

Vocational rehabilitation services means services provided to an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, and services provided for the benefit of groups of individuals with disabilities. Vocational Rehabilitation Services for an individual with a disability may include—

(i) An assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

(ii) Counseling and guidance, including information and support services to assist an individual in exercising informed choice;

Off. of Spec. Educ. and Rehab. Services, Education

§ 385.31

(iii) Referral and other services to secure needed services from other agencies;

(iv) Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(v) Vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials;

(vi) Diagnosis and treatment of physical and mental impairments;

(vii) Maintenance for additional costs incurred while the individual is receiving services;

(viii) Transportation;

(ix) On-the-job or other related personal assistance services;

(x) Interpreter and reader services;

(xi) Rehabilitation teaching services, and orientation and mobility services;

(xii) Occupational licenses, tools, equipment, and initial stocks and supplies;

(xiii) Technical assistance and other consultation services to conduct market analysis, develop business plans, and otherwise provide resources to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

(xiv) Rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

(xv) Transition services for individuals with disabilities that facilitate the achievement of employment outcomes;

(xvi) Supported employment services;

(xvii) Services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome;

(xviii) Post-employment services necessary to assist an individual with a disability to retain, regain, or advance in employment; and

(xix) Expansion of employment opportunities for individuals with disabilities, which includes, but is not limited to—

(A) Self-employment, business ownership, and entrepreneurship;

(B) Non-traditional jobs, professional employment, and work settings;

(C) Collaborating with employers, Economic Development Councils, and others in creating new jobs and career advancement options in local job markets through the use of job restructuring and other methods; and

(D) Other services as identified by the Secretary and published in the FEDERAL REGISTER.

[81 FR 55614, Aug. 19, 2016, as amended at 82 FR 31913, July 11, 2017]

Subpart B [Reserved]

Subpart C—How Does One Apply for a Grant?

§ 385.20 What are the application procedures for these programs?

The Secretary gives the designated State agency an opportunity to review and comment on applications submitted from within the State that it serves. The procedures to be followed by the applicant and the State are in 34 CFR 75.155 through 75.159.

(Authority: Sections 12(c) and 302 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 772)

Subpart D—How Does the Secretary Make a Grant?

§ 385.30 [Reserved]

§ 385.31 How does the Secretary evaluate an application?

(a) The Secretary evaluates applications under the procedures in 34 CFR part 75.

(b) The Secretary evaluates each application using selection criteria identified in parts 386, 387, and 390, as appropriate.

(c) In addition to the selection criteria described in paragraph (b) of this section, the Secretary evaluates each application using—

(1) Selection criteria in 34 CFR 75.210;

(2) Selection criteria established under 34 CFR 75.209; or

(3) A combination of selection criteria established under 34 CFR 75.209 and selection criteria in 34 CFR 75.210.

(Authority: Sections 12(c) and 302 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 772)

§ 385.33

§ 385.33 What other factors does the Secretary consider in reviewing an application?

In addition to the selection criteria listed in § 75.210 and parts 386, 387, and 390, the Secretary, in making awards under this program, considers such factors as—

(a) The geographical distribution of projects in each Rehabilitation Training Program category throughout the country; and

(b) The past performance of the applicant in carrying out similar training activities under previously awarded grants, as indicated by such factors as compliance with grant conditions, soundness of programmatic and financial management practices and attainment of established project objectives.

(Authority: Sections 12(c) and 302(b) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 772(b))

Subpart E—What Conditions Must Be Met by a Grantee?

§ 385.40 What are the requirements pertaining to the membership of a project advisory committee?

If a project establishes an advisory committee, its membership must include individuals with disabilities or parents, family members, guardians, advocates, or other authorized representatives of the individuals; members of minority groups; trainees; and providers of vocational rehabilitation and independent living rehabilitation services.

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c))

§ 385.41 What are the requirements affecting the collection of data from designated State agencies?

If the collection of data is necessary from individuals with disabilities being served by two or more designated State agencies or from employees of two or more of these agencies, the project director must submit requests for the data to appropriate representatives of the affected agencies, as determined by the Secretary. This requirement also applies to employed project staff and

34 CFR Ch. III (7–1–18 Edition)

individuals enrolled in courses of study supported under these programs.

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c))

§ 385.42 What are the requirements affecting the dissemination of training materials?

A set of any training materials developed under the Rehabilitation Training Program must be submitted to any information clearinghouse designated by the Secretary.

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c))

§ 385.43 What requirements apply to the training of rehabilitation counselors and other rehabilitation personnel?

Any grantee who provides training of rehabilitation counselors or other rehabilitation personnel must train those counselors and personnel on the services provided under this Act, and, in particular, services provided in accordance with amendments made to the Rehabilitation Act by the Workforce Innovation and Opportunity Act of 2014. The grantee must also furnish training to these counselors and personnel regarding applications of rehabilitation technology in vocational rehabilitation services, the applicability of section 504 of this Act, title I of the Americans with Disabilities Act of 1990, and the provisions of titles II and XVI of the Social Security Act that are related to work incentives for individuals with disabilities.

(Authority: Sections 12(c), 101(a), and 302 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), 721(a) and 772)

§ 385.44 What requirement applies to the training of individuals with disabilities?

Any grantee or contractor who provides training shall give due regard to the training of individuals with disabilities as part of its effort to increase the number of qualified personnel available to provide rehabilitation services.

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c))

§ 385.45 What additional application requirements apply to the training of individuals for rehabilitation careers?

(a) All applicants for a grant or contract to provide training shall demonstrate how the training they plan to provide will prepare rehabilitation professionals to address the needs of individuals with disabilities from minority backgrounds.

(b) All applicants for a grant shall include a detailed description of strategies that will be utilized to recruit and train persons so as to reflect the diverse populations of the United States, as part of the effort to increase the number of individuals with disabilities, individuals who are members of minority groups, who are available to provide rehabilitation services.

(Approved by the Office of Management and Budget under control number 1820-0018)

(Authority: Sections 21(a) and (b) and 302 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 718(a) and (b) and 772)

§ 385.46 What limitations apply to the rate of pay for experts or consultants appointed or serving under contract under the Rehabilitation Training program?

An expert or consultant appointed or serving under contract pursuant to this section shall be compensated at a rate subject to approval of the Commissioner which shall not exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code. Such an expert or consultant may be allowed travel and transportation expenses in accordance with section 5703 of title 5, United States Code.

(Authority: Section 302(b)(3) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 772(b)(3))

PART 386—REHABILITATION TRAINING: REHABILITATION LONG-TERM TRAINING

Subpart A—General

Sec.

386.1 What is the Rehabilitation Long-Term Training program?

386.2 Who is eligible for an award?

386.3 What regulations apply?

386.4 What definitions apply?

Subpart B [Reserved]

Subpart C—How Does the Secretary Make an Award?

386.20 What additional selection criteria are used under this program?

386.21 What are the application procedures for these programs?

Subpart D—What Conditions Must Be Met After an Award?

386.30 What are the matching requirements?

386.31 What are the requirements for directing grant funds?

386.32 What are allowable costs?

386.33 What are the requirements for grantees in disbursing scholarships?

386.34 What assurances must be provided by a grantee that intends to provide scholarships?

386.35 What information must be provided by a grantee that is an institution of higher education to assist designated State agencies?

386.36 What is a grantee's liability for failing to provide accurate and complete scholar information to the Department?

Subpart E—What Conditions Must Be Met by a Scholar?

386.40 What are the requirements for scholars?

386.41 Under what circumstances does the Secretary grant a deferral or exception to performance or repayment under a scholarship agreement?

386.42 What must a scholar do to obtain an exception or a deferral to performance or repayment under a scholarship agreement?

386.43 What are the consequences of a scholar's failure to meet the terms and conditions of a scholarship agreement?

AUTHORITY: Sections 12(c) and 302 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 772, unless otherwise noted.

SOURCE: 81 FR 55619, Aug. 19, 2016, unless otherwise noted.

Subpart A—General

§ 386.1 What is the Rehabilitation Long-Term Training program?

(a) The Rehabilitation Long-Term Training program provides financial assistance for—

(1) Projects that provide basic or advanced training leading to an academic degree in one of those fields of study